

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FRATELLI D'AMATO SpA

Plaintiff,

v.

PACTRANS AIR & SEA USA a/k/a
PACTRANS AIR & SEA, INC.

Defendant.

Civil Action No. 13-1793

ORDER (i) DIRECTING CLERK TO ISSUE PROCESS OF MARITIME
ATTACHMENT AND GARNISHMENT; (ii) APPOINTING PERSON(S) TO SERVE
PROCESS PURSUANT TO RULE 4(c); and (iii) DEFINING SCOPE OF SERVICE

WHEREAS, a Verified Complaint has been filed on behalf of the Plaintiff herein on the 17th day of December, 2013, along with the Affidavit of Leonard Fornella, Esquire, sworn to on the same day, that to the best of his information and belief the Defendant cannot be found within this District for the purpose of an attachment under Rule B(1) Supplemental Rules for Certain Admiralty and Maritime Claims; and

WHEREAS, Plaintiff sets forth in the Verified Complaint a certain action for breach of a maritime contract wherein it is alleged that there is due and owing from Defendant to Plaintiff the amount of \$3,737,625; and

WHEREAS, Plaintiff has further moved for an Order appointing a special process server to serve the Process of Attachment and Garnishment; and

WHEREAS, the Court has reviewed the Verified Complaint and has found that the conditions for an attachment as required by Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure appear to exist, and that issuance of an Order authorizing a special process server and defining the scope and

O R D E R E D that supplemental process enforcing the Court's Order may be issued and served without further Order of the Court; and it is further

O R D E R E D that pursuant to Rule B(1)(d)(ii)(c) of the Supplemental Rules for certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, Leonard Fornella, Esquire, or any other attorney, paralegal or other agent of Babst, Calland, Clements & Zennir, P.C. be and is hereby appointed, in addition to the United States Marshal, to serve the Process of Attachment and Garnishment and the Verified Complaint, together with a copy of this Order and any Interrogatories, upon any garnishee named in the Process, together with any other garnishee(s) who (based upon information developed subsequent hereto by the Plaintiff) may hold assets of, for, or on behalf of the Defendant; and it is further

O R D E R E D that following initial service upon any garnishee by the United States Marshal or any other person designated by this Order to make service in this action, supplemental service of the Process of Maritime Attachment and Garnishment may thereafter be made by way of facsimile transmission or other verifiable electronic means, including e-mail, to each garnishee so personally served, such service to be in accordance with each garnishee's preference or policy, and such facsimile or other electronic transmission shall be deemed to be made within the district if it has been sent from within the district; and it is further

O R D E R E D that service on any garnishee herein is deemed to be effective and continuous service throughout the remainder of the day upon which such service is made commencing from the time of such service, and that same service is further deemed to be effective through the end of the next business day provided another service is made during the next business day, and it is further

methodology of the service of the Process would be appropriate under the circumstances of this action;

NOW, THEREFORE, upon motion of Plaintiff, through its attorneys, it is hereby **ORDERED** that the Clerk of this Court is directed forthwith to issue the Process of Maritime Attachment and Garnishment for seizure of all tangible and intangible property belonging to, owned by, or claimed by the Defendant, including but not limited to any cash, funds, credits, debts, accounts, letters of credit, freights, sub-freights, charter hire, sub-charter hire, and/or any other property of or debt, belonging to, due to, from, or for the benefit of Defendant, and also including but not limited to any property of the Defendant, as may be held, received or transferred in its own name or for its benefit at, or within the possession, custody or control of banking institutions and/or other institutions or such other garnishee(s) on whom a copy of the Process of Maritime Attachment and Garnishment may be served within this District, including, *inter alia*, any such tangible or intangible property held by the named garnishee The PNC Financial Services Group, Inc., PNC Bank a/k/a PNC Bank, N.A., PNC Bank Corporation and/or PNC Bank National Association, in the amount of \$3,737,625, pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure in respect to the claim against the Defendant, as identified in the Verified Complaint and as specified in the Process; and it is further

ORDERED that any person claiming an interest in the property attached or garnished pursuant to this Order shall, upon application to the Court, be entitled to a prompt hearing at which Plaintiff shall be required to show why the attachment and garnishment should not be vacated or other relief granted; and it is further

ORDERED that a copy of this Order be attached to and served with the said Process of Maritime Attachment and Garnishment.

Dated: December 17, 2013


UNITED STATES DISTRICT JUDGE